UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1995/NGO/48
6 March 1995

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-first session
Agenda item 19

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-SIXTH SESSION

Written statement submitted by the International Organization of Indigenous Resource Development, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV)

[2 March 1995]

1. The International Organization for Indigenous Resource Development would like to address certain issues of concern arising from the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-sixth session.

2. The IOIRD is encouraged that a second technical meeting will be held prior to the thirteenth session of the Working Group on Indigenous Populations to consider a final programme of action for the International Decade of the World's Indigenous Peoples. We would of course reiterate our previous interventions that there must be continued full participation of indigenous peoples at all levels of discussions in the United Nations system. IOIRD also supports renewing the appointment of Ms. Rigoberta Menchú Tum as United Nations Goodwill Ambassador.

3. IOIRD would like to thank and commend the Special Rapporteur, Ms. Erica Irene Daes, for her ongoing outstanding contributions, as reflected in part by her preliminary report on the protection of the heritage of indigenous peoples (E/CN.4/Sub.2/1995/31). We will be commenting further on the draft principles and guidelines. As stated in previous interventions we have presented to this and other forums, we view "free and informed consent" as a very important and fundamental principle in indigenous and non-indigenous relations, especially as reflected in our international treaties. The protection of our heritage must be based on self-determination. Further, our treaties evidence our right to self-determination and reflect also the important spiritual aspects of our agreements and culture.

4. IOIRD must restate its position regarding indigenous peoples' participation at all levels of United Nations discussions of the draft United Nations declaration on the rights of indigenous peoples. It is our view that indigenous peoples are the ones who must live with these laws; consequently, it is very important that we be able to decide on process and content, to determine our own destiny. In support of the call for "a new relationship: partnership in action", we believe and request approval of full and broad-based participation by indigenous peoples, without regard to consultative status, during discussion of the draft declaration in meetings of United Nations bodies, including the Commission itself.

5. We in our July 1994 intervention noted that there are several proposals concerning the kind of permanent forum for indigenous peoples that will be established in the United Nations. There are numerous details requiring clarification and IOIRD wishes to ensure that the best available and most effective forum be established. We argue that the forum must have the authority to sanction, for example, violations of the declaration and other international instruments. Consequently, we restate our view that a seminar or workshop should be convened, with full indigenous participation, to consider the numerous possibilities.

6. On a very recent domestic matter, although it has persisted for years as a failure of the Canadian legal and political systems to administer justice and fairness in the adjudication of an aboriginal, treaty and basic human rights, the Badger case will be argued in the highest court. It is important that we inform the Commission and the United Nations of the loss of confidence of our people in the competence of the laws and politics of Canada to effect meaningful change to the present deplorable third world social and economic conditions that exist in our communities across Canada. In view of this, IOIRD recommends the creation of a truly independent tribunal consisting of representatives from the international community to arbitrate on past, present and future matters affecting our aboriginal, treaty and basic human rights. We rely on the international community for justice and the permanent forum could provide such an opportunity.

7. The study on treaties between States and indigenous peoples of the Special Rapporteur, Mr. Miguel Alfonso Martínez, is extremely important to us as descendants of members signatory to Treaty 6. IOIRD argues for and recommends recognition of Treaty 6 as an international agreement and as a

subject of international law. Such was the spirit and intent when our forefathers performed sacred ceremonies leading up to the agreements to share. This partnership requires a new relationship, one of mutual honour, trust and respect.

8. There are two recent concerns we would urge the Commission to consider for action. First, as indicated in our previous interventions, the domestic situation in Canada regarding Quebec is an ongoing concern. As you know, in an international agreement like Treaty 6, one party (Nation) to the agreement cannot unilaterally alter the relationship or the agreement without the consent of the other. When Treaty 6 was signed with the British Crown and its subsequent transfer of legal obligations to the Crown in the right of Canada, it included Quebec. We view any alteration, unilaterally, to the Federal Crown by the separation of Quebec as a violation of Treaty 6. IOIRD also argues that there are many legal questions that arise upon such an eventuality. The second matter is with respect to the tax exemptions secured as part of treaty negotiations and with respect to tax jurisdiction of First Nations governments. We are requested to notify you, by resolution of the Assembly of First Nations in Canada, of recent violations. By Motion, the Assembly resolved in part:

> "WHEREAS the Government of Canada is seeking to unilaterally impose its own taxation system on First Nations citizens;
>
> WHEREAS this action by Canada represents a major violation of the sovereignty of First Nations, as well as the inherent, aboriginal and treaty rights for which the Crown has sacred and constitutional obligation to protect;
>
> WHEREAS Canada has ignored all attempts by First Nations to engage in dialogue on this issue ... "

9. The recent violations to treaty rights cannot go unregarded. IOIRD maintains that our treaties affirm and evidence our right to self-determination. As such, they are also human rights. In conclusion, we would only remind you of the World Conference on Human Rights in Vienna which considered the denial of the right to self-determination as a violation of human rights (A/CONF.157/23).